

IN THE UNITED STATES PATENT & TRADEMARK OFFICE



#19
JRM
3-27-95

APPLICANT: MICHAEL E. TOMPKINS §
AND MICHAEL J. GREEN §

GROUP ART UNIT: _____

SERIAL NO.: CONCURRENT §

FILED: CONCURRENT §

FOR: SPA CONTROL SYSTEM §

EXAMINER: _____

INFORMATION DISCLOSURE STATEMENT

Commissioner of Patents & Trademarks
Washington, D.C. 20231

Date: February 6, 1995
Docket No.: 86-1198-07-A

Sir:

This Information Disclosure Statement, including completed Form PTO-1449, comprises a list of pertinent art of which Applicants are aware. A copy of each publication listed on Form PTO-1449 should already be in the file. Each of the prior art references, with the exception of U.S. Patent 4,322,297 to *Bajka*, was cited in a related patent application. The submission of this Information Disclosure Statement and Form PTO-1449 is not an admission that the art cited is "prior" with respect to the present invention, nor is it a representation that no better art exists. Applicants hereby reserve the right to swear behind or otherwise disprove any alleged "prior" nature of any art cited should the facts support and the situation warrant such an action.

It is submitted that the art cited does not constitute a bar to the patentability of Applicants' invention under 35 U.S.C. §102 or §103.

Please charge any fees to Deposit Account No. 15-0697 of David Ostfeld, P.C.

Respectfully submitted,



David Ostfeld, Reg. 27,827
Attorney for Applicant
Chamberlain, Hrdlicka, White,
Williams & Martin
1200 Smith Street, Suite 1400
Houston, Texas 77002
(713) 658-1818



CERTIFICATE OF MAILING

I hereby certify that the attached communication is being deposited in the United States mail as Express Mail Next Day Service, No. NB268205619, in an envelope addressed to Commissioner of Patents and Trademarks, Washington, D.C. 20231, on February 7, 1995 from Houston, Texas by Donna G. Davis.

In the event that such communication is not timely filed in the United States Patent and Trademark Office, it is requested that this paper be treated as a petition and that the:

delay in prosecution be held unavoidable - 35 U.S.C. 133.
 delay payment of the fee be accepted - 35 U.S.C. 151.

The petition fee required is authorized to be charged to Deposit Account No. 15-0697 in the name of David Ostfeld, P.C.

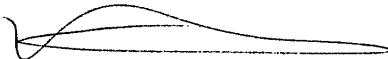
The undersigned declare further that all statements made herein are true, based upon the best available information; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Feb. 7, 1995

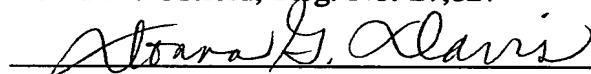
Date

Feb. 7, 1995

Date



David M. Ostfeld, Reg. No. 27,827



(Signature of person mailing, if other than the above)



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

APPLICANT: MICHAEL E. TOMPKINS
AND MICHAEL J. GREEN
SERIAL NO: CONCURRENT

GROUP ART UNIT: _____

FEDERAL CONCURRENCE

EXAMINER: _____

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner of Patents & Trademarks
Washington, D.C. 20231

Date: February 6, 1995
Docket No.: 86-1198-06

Sir:

The Assignee of the present invention recently has learned of a prior art patent, U.S. Patent No. 4,332,297, during the course of related litigation on a commonly assigned patent. The Assignee of the present application desires the Examiner to review U.S. Patent No. 4,332,297 (a copy of which is attached as Exhibit A) when passing on the allowability of the above-referenced application. On September 9, 1994, the Assignee filed with the Office for the parent of this application, S.N. 08/162,420, filed December 3, 1993, an advertisement that appeared in the November 3, 1986 (Vol. 25, No. 21) issue of *Pool & Spa News*. A copy of this advertisement is attached as Exhibit B. Assignee also requests the Office to consider this advertisement. Please charge any fees to Deposit Account No. 15-0697 of David Ostfeld, P.C.

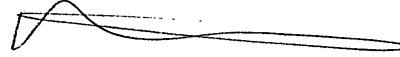
The parent application was allowed on June 10, 1994. Subsequently, the Assignee learned that the issuance of the application had been delayed due to the fact that certain formal drawings could not be located by the Office and for the consideration of the September 9, 1994 filing of Exhibit B.

The Assignee owns U.S. Patent No. 5,361,215, which has a common parent with this application. On November 14, 1994, Assignee filed suit in the Southern District of Texas on U.S. Patent No. 5,361,215. The defendant in that case has argued in subsequent pleadings that the '215 patent is invalid based upon U.S. Patent 4,322,297.

The Assignee requests that the Office consider U.S. Patent No. 4,322,297 and the *Pool & Spa News* advertisement before issuing the above-identified application, which is a

continuation of U.S. Serial No. 08/162,420. Consequently, the Assignee requests the Office to withdraw U.S. Serial No. 08/162,420 from issuance and abandon it and continue its prosecution in the above-referenced application for that purpose. No patent number has yet been assigned to the patent of the above-referenced application.

Respectfully submitted,



David Ostfeld, Reg. 27,827
Attorney for Applicant
Chamberlain, Hrdlicka, White,
Williams & Martin
1200 Smith Street, Suite 1400
Houston, Texas 77002
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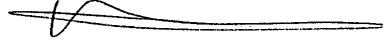
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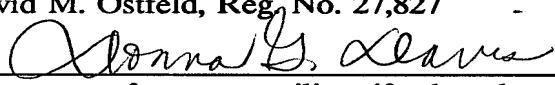
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The undersigned declare further that all statements made herein are true, based upon the best available information; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Feb. 7, 1995
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David M. Ostfeld, Reg. No. 27,827

(Signature of person mailing, if other than the above)